

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL NO. 23-308
KAMAL FATALIEV	:	

GOVERNMENT’S MOTION FOR PRETRIAL DETENTION

Defendant Kamal Fataliev is charged with making false statements to FBI agents conducting an international terrorism investigation. Through his lies, Fataliev sought to frustrate an investigation into the identities of others who may have accessed bomb making manuals and similar resources that he posted in two separate online chat groups populated with terror supporters.

If convicted of the charged crimes, Fataliev may be deported from the United States on national security grounds. Fataliev is a foreign national, a citizen of Russia, with substantial overseas ties. If released, even if he surrenders his passport, Fataliev may be able to obtain a new passport from the Russian consulate. With a new Russian passport, Fataliev may be able to return to Russia or (more opportunely) travel to a number of visa waiver countries. Of course, Fataliev may also be able to flee within the United States.

With a Sentencing Guidelines range of 63-78 months and his possible deportation, Fataliev has substantial incentives to flee. Because no condition or combination of conditions will reasonably assure the appearance of Fataliev as required the government moves pursuant to 18 U.S.C. §§ 3142(f)(2)(A) for a detention hearing and his pretrial detention.

I. THE FACTS

In support of this motion, the government makes the following representations and proposed findings of fact:

A. Probable Cause and the Evidence in This Case

1. There is probable cause to believe that the defendant has committed the crime of false statements to federal agents as charged in the Indictment.

2. The evidence in this case is strong.

Defendant Fataliev came under FBI investigation in early 2022, after FBI agents in Chicago disrupted a plot there to carry out a violent terror attack. In the course of investigating the Chicago plot, the agents learned that one of the plotters had exchanged approximately 700 online messages with Fataliev. As a result, they began investigating Fataliev. Agents learned that, in various internet postings, Fataliev demonstrated support for violence on behalf of ISIS, and a desire that their goals be achieved. Further, agents discovered that Fataliev had participated in various online terror-related chat groups, including “Chat Group One” and “Chat Group Two” in the Indictment; and that in Chat Group One, Fataliev had posted approximately 200 bomb, poison, and weapons making manuals.

In March 2022, FBI agents obtained a search warrant and searched Fataliev’s residence. Agents interviewed Fataliev, and he admitted to the posts. Fataliev stated that he possessed hundreds of digital copies of firearms and explosives manuals. Further, he stated that his social media profiles used ISIS imagery such as the ISIS black “shahada” flag so that other users would be able to see that Fataliev was affiliated with ISIS. He also stated that it was his belief that members of one chat group were legitimate ISIS fighters, who could use the

information he provided to create explosives. A few months later, in a separate interview, Fataliev told agents that he had abandoned his radicalism and would have no further contact with terror-related forums.

Fataliev did not follow through on his assurances. Agents learned that Fataliev had soon renewed his terror-related activities, and so FBI's investigation resumed. A cooperating witness, working at the direction of FBI agents, went into one of the chat groups and began communicating with Fataliev. The cooperator posed as a radical, wishing to make and detonate a bomb. He asked Fataliev for advice, and Fataliev provided some, including his suggestions to (1) buy different items needed for the attack at different stores; (2) install and use the TOR¹ browser to "look for information on these things online with privacy." Fataliev also referred the cooperating witness to an individual located overseas, who invited the cooperating witness to engage in terror activities outside the United States. Ultimately, the cooperator told Fataliev that his plan was to detonate a device on or around the Memorial Day holiday.

On May 26, 2023, agents went to Fataliev's new apartment with another search warrant. After agents searched the apartment, Fataliev agreed to another interview, which was recorded. At the outset of this May 26 interview, agents gave Fataliev formal warnings that it is a crime to lie to FBI agents engaged in an investigation. Still, Fataliev falsely told agents that he created Chat Group Two solely for himself, as storage for his materials, and had never allowed

¹ "TOR" is the acronym for "The Onion Router," which is a special network of computers on the internet that is designed to conceal the true IP addresses of the computers on the network and, thereby, the identities of the network's users. TOR browser software is publicly available and may be downloaded by prospective users on the internet. Although TOR has known legitimate uses, it is also known to be used by cybercriminals and terrorists seeking anonymity in their illicit online activities. Notably, one of the manuals that Fataliev distributed was an ISIS manual that included an admonition to maintain "a clean home IP address" by conducting "Jihad searches on TOR."

anyone else into the group. This was provably false; evidence from Fataliev's phone, as well as from the phone of one of the Chicago plotters, showed that they had been in contact through Chat Group Two. Agents later interviewed the Chicago plotter, who confirmed the contacts and even authenticated screen shots of his messages with Fataliev.

The next day, Fataliev contacted the agents and requested another conversation. Agents obliged and spoke with Fataliev in person that same day. This interview was also recorded. During this May 27, 2023 interview, Fataliev repeated his lie about Chat Group Two. He also told the agents that he had never posted bomb making manuals or other materials on Chat Group One. This was provably false; Fataliev had previously admitted that he had posted the materials, and an FBI Online Covert Employee had viewed his activities in doing so. Also on May 27, 2023, Fataliev briefly discussed the cooperating witness and the bomb plot. In sum, Fataliev claimed that he had not offered advice or encouragement to the cooperating witness, and that he did not know what the timeline for the attack would be. These were both provably false claims. Meanwhile, Memorial Day was just two days away.

B. Maximum Penalties

Fataliev faces a maximum possible sentence of up to 16 years in prison, with a three-year period of supervised release, a fine of \$500,000, and a \$200 special assessment. His Sentencing Guidelines range is 63-78 months. Accordingly, the defendant has a substantial incentive to flee.

C. Criminal Record

Fataliev has no criminal history.

D. Community Ties/Employment

Fataliev is a Russian citizen with a recent history of international travel to Russia,

Serbia, and Uzbekistan. He has family residing in Russia, including his mother and sister. He is currently a lawful permanent resident of the United States. In addition, Fataliev is a college student at Penn State – Abington with apparently excellent grades. He has been working part-time at fast-food restaurants and on his college campus. Still, his community ties to this country, and in particular this community, are limited. Indeed, any such ties did not deter him from committing his crimes in this case.

E. Immigration Consequences

If convicted of the charged crimes, Fataliev may be deported from the United States on national security grounds if the Department of Homeland Security (“DHS”) meets its burden of proving by clear and convincing evidence that Fataliev materially supported terrorism. Based at least on the evidence outlined above, the government submits that DHS has sufficient evidence to meet this burden in immigration court. The defendant thus has an even greater incentive to flee.

F. Potential Flight

Through surveillance, FBI agents have observed Fataliev make two separate trips to the Russian consulate in New York City within the last six weeks. If released, and even if he surrenders his passport to the Court, Fataliev may be able to obtain a new passport from the Russian consulate. With a new Russian passport, Fataliev may be able to return to Russia or (more opportunely) travel to a number of visa waiver countries. Indeed, following his arrest, Fataliev’s father asked agents if he should take Fataliev out of the country if and when Fataliev is released from custody. His father added that it may be best for Fataliev to leave the United States. Of course, Fataliev may also be able to flee within the United States.

II. CONCLUSION

When all these factors are viewed in light of the substantial sentence defendant faces, it is clear that no condition or combination of conditions will reasonably assure his appearance in court.

WHEREFORE, the government respectfully submits that its Motion for Defendant's Pretrial Detention should be granted.

Respectfully submitted,

Jacqueline C. Romero
UNITED STATES ATTORNEY

/s/ Vineet Gauri
Vineet Gauri
Chief, National Security & Cyber Crime
Assistant United States Attorney

/s/ Joseph A. LaBar
JOSEPH A. LaBAR
Assistant United States Attorney

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PRETRIAL DETENTION ORDER

AND NOW, this day of July, 2023, after an evidentiary hearing and argument of counsel for the government and the defendant, the Court finds that the government has proved by a preponderance of evidence that no condition or combination of conditions will reasonably assure the defendant's appearance at trial, as required by Title 18, United States Code, Section 3142(e). The Court makes the following findings of fact:

This case is appropriate for detention under Title 18, United States Code, Section 3142(e) based on the following:

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in the Indictment; and that in Chat Group One, Fataliev had posted approximately 200 bomb, poison, and weapons making manuals.

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Therefore, IT IS ORDERED that the defendant be committed to the custody of the Attorney General for confinement in a correction facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; that the defendant be afforded reasonable opportunity for private consultation with counsel; and that, on order of a Court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

BY THE COURT:

HONORABLE ELIZABETH T. HEY
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that a copy of the Government's Motion for Pretrial Detention, and Proposed Order was served via email on the following defense counsel:

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Date: July 21, 2023